

SETTLEMENT AGREEMENT AND GENERAL RELEASE

The Settlement Agreement and General Release ("Agreement") is entered into by and between PETER NAVY TUIASOSOPO (hereinafter "Tuiasosopo"), on the one hand, and THE COUNTY OF LOS ANGELES (hereinafter "County"), on the other hand.

RECITALS

A. WHEREAS, on or about October 15, 2007, Tuiasosopo filed a claim with the California Department of Fair Employment & Housing ("DFEH") alleging failure to accommodate his disabilities, harassment, discrimination, and retaliation.

B. WHEREAS, on or about November 26, 2007, Tuiasosopo filed an action against County in Los Angeles County Superior Court in Case No. BC381222, entitled Tuiasosopo v. County of Los Angeles.

C. WHEREAS, Tuiasosopo desires to settle fully and finally all claims or disputes, known or unknown, which Tuiasosopo has or may have against County, including, without limitation, the Lawsuit;

NOW, THEREFORE, based upon the foregoing facts and in consideration for the covenants and conditions contained herein, the Parties agree as follows:

1. No Admission of Liability

The Agreement shall not in any way be construed as an admission by the County that it or any of the Releasees identified in Paragraph 3 below, has acted wrongfully or failed to act lawfully with respect to Tuiasosopo, or any other person, or that Tuiasosopo has any rights whatsoever against the County or any of the Releasees identified in Paragraph 3 below. The County specifically disclaims any liability to or wrongful acts or omissions against Tuiasosopo or any other person, on the part of itself, its employees and agents, past and present, and the Releasees identified in Paragraph 3 below. Neither the Agreement nor anything in it shall be admissible in any proceeding as evidence of any unlawful or wrongful conduct by the County or any of the Releasees identified in Paragraph 3 below.

2. Consideration By The County

In consideration of the covenants undertaken and releases given herein by Tuiasosopo, after receipt by the County of an original of the Agreement signed and dated by Tuiasosopo, and provided that Tuiasosopo does not revoke the Agreement as set forth in Paragraph 4, the County shall provide to Tuiasosopo, subject to approval by the County Approval Process, the following consideration in full and final settlement of any and all matters of any kind or nature which were alleged by, or could have been alleged by, Tuiasosopo against the County and/or any of the Releasees identified in Paragraph 3 below:

(a) The County and Tuiasosopo agree to the following, subject to approval by the County Approval Process.

(i). The County will pay the sum of \$125,000.00, by check made payable to Pedersen Law Client Trust Fund. The amount paid is inclusive of all attorneys' fees and costs;

- (ii) The County will be dismissed with prejudice;
- (iii) Tuiasosopo agrees to separate from County Service upon receipt of the settlement proceeds without eligibility for re-hire;
- (iv) Tuiasosopo agrees not to apply for, seek, or accept future employment with the County, directly or indirectly, an employee, independent contractor, or in any other capacity;
- (v) Tuiasosopo will not be allowed on the premises of the Probation Department's facilities until the settlement draft is received;
- (vi) Tuiasosopo is to return all County equipment, including but not limited to identification badges, keys, code books, manuals, building passes, pager, uniforms, flat badges, parking access stickers, and probation identification badges. All County equipment must be returned before the check is handed over to Tuiasosopo.
- (b) Tuiasosopo acknowledges and agrees that the County is not obligated to provide the above-referenced consideration to him under its normal policies and procedures. Tuiasosopo also acknowledges and agrees that no other monetary payments for any other claimed damage, costs or attorneys' fees shall be made to his in exchange for entering into the Agreement.
- (c) Monies to be paid to Releasor for his alleged personal physical injuries shall be pursuant to 102A of the Internal Revenue Code, with the Releasee-issuing a 1099, with indemnity. Thus, Releasor is under an obligation to indemnify the Releasee, County of Los Angeles, for any tax liability as a result of Releasor's failure to pay any taxes that may be due in a timely manner. The consideration set forth above does not include any pension monies that Releasee would otherwise be entitled to.

It is understood and agreed that Tuiasosopo is solely responsible for federal and/or state income tax due on the settlement amount paid pursuant to the Agreement, if any. The County makes no representations or warranties regarding Tuiasosopo's tax obligations or liabilities concerning the settlement amount. Tuiasosopo hereby agrees to indemnify and hold the County and the Releasees identified in Paragraph 3 below, and any of them, harmless from and against all liabilities, losses, costs, expenses, interest, payments and penalties which may result from Tuiasosopo's or his counsel's receipt of the above settlement payments in the event such payments should later be determined taxable to Tuiasosopo and/or the County.

3. Complete Release of All Claims, Known or Unknown

In consideration of the covenants undertaken herein by the County, Tuiasosopo hereby covenants not to sue and fully releases and discharges the County, all of its divisions, and all of its parent, successor, subsidiary and affiliated companies and entities, including but not limited to its hospitals, emergency departments, and its clinics, and each of its divisions, officers, directors, shareholders, partners, limited partners, agents, employees, representatives, independent contractors, vendors, payroll companies, attorneys, insurers, licensees and assigns, past and present (all of which and whom are collectively referred to as "Releasees"), with respect to and from, any and all claims, demands, rights, liens, agreements, contracts, covenants, actions, suits, causes of action (including any future wrongful death

claim), obligations, rights, debts, costs, loss of services, comfort and society, consortium, expenses, attorneys' fees, damages, compensation of any nature whatsoever, judgments, orders and liabilities of whatever kind or nature in law, equity or otherwise, whether now known or unknown, suspected or unsuspected, and whether or not concealed or hidden, which Tuiasosopo now owns or holds, or has at anytime heretofore owned or held, or may in the future accrue or hold against said Releasees, or any of them, arising out of, grounded upon, or in any way connected with Tuiasosopo's employment relationship with the County or any other transactions, occurrences, acts or omissions or any loss, damages or injury whatsoever, known or unknown, suspected or unsuspected, resulting from any act or omission by or on the part of the Releasees, or any of them, committed or omitted prior to the date of the Agreement ("Claim or Claims"), or which are the subject of the Lawsuit. Tuiasosopo's release of any such Claim or Claims includes, but is not limited to, any action arising out of any foreign, federal, state or local constitution, statute, ordinance, regulation, or common law, including, but not limited to, any Claims contained in the Claim Letters; any Claims arising under the Age Discrimination In Employment Act; Title VII of the Civil Rights Act of 1964; the Equal Pay Act; the Americans With Disabilities Act; the Family and Medical Leave Act; the California Fair Employment and Housing Act; all provisions of the California Labor Code; all provisions of the California Government Code; the Orders of the California Industrial Welfare Commission regulating wages, hours and working conditions; any other foreign, federal, state or local laws prohibiting employment discrimination or otherwise regulating employment; any Claim or Claims for discrimination, failure to prevent discrimination, retaliation, failure to prevent retaliation, harassment, failure to prevent harassment, assault, battery, misrepresentation, fraud, deceit, invasion of privacy, breach of contract, breach of collective bargaining agreement, breach of quasi contract, breach of implied contract, an accounting, wrongful or constructive discharge, breach of the covenant of good faith and fair dealing, libel, slander, negligent or intentional infliction of emotional distress, violation of public policy, negligent supervision, negligent retention, negligence, or interference with business opportunity or with contracts; and any Claim or Claims for vacation pay, severance pay, bonus or similar benefit, sick leave, pension, retirement, retirement bonus, holiday pay, life insurance, health or medical insurance, reimbursement of health or medical costs; provided, however, that the release shall not affect any rights Tuiasosopo has been granted pursuant to the Agreement. It is agreed that dismissal is to be held in Trust by Defense counsel until funds are delivered and then filed.

4. Release Of Claims By The County

In consideration of the covenants undertaken herein by Tuiasosopo, the County hereby covenants not to sue and fully releases and discharges Tuiasosopo, with respect to and from any and all claims, demands, rights, liens, agreements, contracts, covenants, actions, suits, causes of action, obligations, debts, costs, expenses, attorneys' fees, damages, judgments, orders and liabilities of whatever kind or nature in law, equity or otherwise, whether now known or unknown, suspected or unsuspected, and whether or not concealed or hidden, which they now own or hold, or have at anytime heretofore owned or held as against Tuiasosopo, arising out of, grounded upon, or in any way connected with Tuiasosopo's employment relationship with the County, Tuiasosopo's separation from that employment, or any other transactions, occurrences, acts or omissions or any loss, damages or injury whatsoever, known or unknown, suspected or unsuspected, resulting from any act or omission by or on the part of Tuiasosopo, committed or omitted prior to the date of the Agreement; provided, however, that the release shall not affect any other rights that otherwise have been granted pursuant to the Agreement.

5. Unknown Claims

Tuiasosopo and the County EXPRESSLY WAIVE and relinquish all rights and benefits afforded by Section 1542 of the California Civil Code, and do so understanding and acknowledging the significance and consequence of such specific waiver of Section 1542. Section 1542 of the California Civil Code states as follows:

"A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR."

Thus, notwithstanding the provisions of Section 1542, and for the purpose of implementing a full and complete release and discharge of each and all of the Releasees, Tuiasosopo and the County expressly acknowledge that the Agreement is intended to include in its effect, without limitation, all Claims which Tuiasosopo and the County do not know or suspect to exist in his or its favor at the time of execution hereof, and that the Agreement contemplates the extinguishment of such Claim or Claims.

6. Delivery of Dismissal with Prejudice

Concurrently with the execution of the Agreement, counsel for Tuiasosopo will deliver to counsel for the County, an executed Dismissal with Prejudice of the entire civil action described herein to be held in trust by defense counsel as against the County named above. Tuiasosopo has authorized his attorney to execute the Dismissal on his behalf and hereby authorizes counsel for the County to file said Dismissal with the Court and enter it as a matter of record following Tuiasosopo's receipt of the settlement proceeds as described in Paragraph 2(a)(i). Tuiasosopo understands and agrees that the Agreement is void unless the Request for Dismissal with Prejudice is filed, signed and entered by the Court.

7. Claims or Liens by Other Parties

Except as otherwise provided herein, Tuiasosopo further holds the County and the Releasees hereby released harmless from and accepts complete responsibility for any claim or lien by any other party, including but not limited to medical insurance carriers or governmental entities, who are interested in or have any claim arising out of the incidents herein (non-inclusive of any worker's compensation claim pending with regard to Tuiasosopo), and will hold harmless, defend and indemnify, if requested, the County or its agents, assigns, employees, representatives, or predecessors or successors in interest hereby released.

8. Entire Agreement; No Representations

The Agreement sets forth the entire agreement between the parties hereto, and fully supersedes any and all prior agreements or understandings between the parties hereto pertaining to the subject matter hereof. The Agreement is an integrated one and its terms are contractual and not a mere recital. The Agreement may be amended only upon an agreement in writing. The parties represent and agree that they have thoroughly discussed all aspects of the Agreement with their respective attorneys and that they have carefully read and fully understand all of the provisions of the Agreement, and that they are voluntarily

entering into the Agreement, and that they do not and have not relied in any way on any representations or statements of any of the other parties to the Agreement or their representatives.

If any action or proceeding is brought for the enforcement of the Agreement, or for a declaration of rights and duties hereunder or because of an alleged dispute, breach, default or misrepresentation in connection with any provision of the Agreement, the successful or prevailing party shall be entitled to recover actual attorneys' fees and other costs incurred in connection with that action or proceeding, in addition to any other relief to which the party may be entitled.

9. No Attorneys' Fees or Costs

The parties to the Agreement agree to bear their own costs and attorneys' fees in connection with the matters covered in the Agreement and in filing a Dismissal of the Lawsuit, except as otherwise provided for in Paragraph 2(a)(i) above.

10. Final Compromise: No Admissions

Tuiasosopo agrees and acknowledges that he accepts payment of the sums specified in the Agreement as a full and complete compromise of matters involving disputed issues; that neither payment of the sums by the County, nor the negotiations for the settlement (including all statements, admissions, or communications by the County, and their attorney or representatives) shall be considered admissions by them; and that no past or present wrongdoing on the part of the County, its employees, or agents shall be implied by such payments or negotiations.

11. Cessation of Employment

Tuiasosopo represents, understands and agrees that his employment at the County will permanently end effective no later than 5:00 p.m. on the date in which the settlement proceeds are received by Tuiasosopo. Tuiasosopo further represents, understands and agrees that he shall not, at any time, apply for, seek or accept any employment with, and waives any right to employment with, the County of Los Angeles and any division, agency, or affiliation thereof.

12. Further Cooperation

All parties agree to cooperate fully and to execute any and all supplementary documents and to take all additional actions that may be necessary or appropriate to give force and effect to the basic terms and intent to the Settlement Agreement and General Release and which are not inconsistent with its terms.

13. Ownership of Claims

Tuiasosopo represents and warrants that no other person or entity has or has had any interest in the claims, demands, obligations or causes of action referred to in the Agreement except as set forth herein and that he has the sole right and exclusive authority to execute the Agreement and receive the sums specified in it.

Tuiasosopo represents and agrees that he has not heretofore sold, conveyed, assigned or transferred, or purported to have sold, conveyed, assigned or transferred, to any person whomsoever, or otherwise disposed of any Claim or portion thereof or interest therein, obligations or causes of action referred to in the Agreement. Tuiasosopo agrees to indemnify, defend and hold harmless each and all of the Releasees against any and all Claims based on, arising out of, or in connection with any such transfer or assignment, or purported transfer or assignment, of any Claims or any portion thereof or interest therein.

14. Successors

The Agreement shall be binding upon Tuiasosopo, and his heirs, agents, parents, representatives, executors, administrators, successors in interest, and assigns, and shall inure to the benefit of each and all of the Releasees, and to their heirs, agents, representatives, executors, administrators, successors and assigns.

The Agreement shall be binding upon the County, and its representatives, successors in interest and assigns, and shall inure to the benefit of Tuiasosopo, and to his heirs, agents, representatives, executors, administrators, successors and assigns.

15. Severability

The Agreement shall be construed and interpreted in accordance with the laws of the State of California. Should any part, term or provision of the Agreement, with the exception of the releases embodied in Paragraphs 3 and 5, be declared or determined by any Court or other tribunal of appropriate jurisdiction to be invalid or unenforceable, any such invalid or unenforceable part, term or provision shall be deemed stricken and severed from the Agreement and any and all of the other terms of the Agreement shall remain in full force and effect to the fullest extent permitted by law. The releases embodied in Paragraphs 3 and 5, are the essence of the Agreement and should any of these paragraphs be deemed invalid or unenforceable, the Agreement may be declared null and void and any consideration received under the Agreement shall be returned to the County.

16. Counterpart Execution and Use of Photocopies

The Agreement may be executed by signature of each of the parties hereto, or their authorized representatives, on multiple copies of the Agreement, including copies transmitted by facsimile machine, and upon being so executed by all parties hereto, shall be effective as if all signatures appeared on the original of the Agreement.

17. Effect of Waiver of Breach

No waiver of any breach of any term or provision of the Agreement shall be construed to be, or shall be, a waiver of any other breach of the Agreement. No waiver shall be binding unless in writing and signed by the party waiving the breach.

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18. Paragraph Description

The use of headings in the Agreement is only for ease of reference and the headings have no effect and are not to be considered part or terms of the Agreement.

19. Contract Drafting

Both parties participated in the drafting of the Agreement. Neither party, nor any party's counsel, shall be deemed the drafter of the Agreement in any proceeding that may hereafter arise between them.

20. Agreement Fully Enforceable Even After Dismissal

This Agreement is fully enforceable pursuant to California Code of Civil Procedure Section 664.6, and the court retains jurisdiction to enforce the terms of the settlement even after entry of a dismissal of the action with prejudice.

I HAVE READ THE FOREGOING AGREEMENT AND FULLY UNDERSTAND AND ACCEPT IT.

Peter Navy Tuiasosopo and All Persons Acting By,
Through, or On his Behalf

Dated: 3/2/2009

By: 

PETER NAVY TUIASOSOPO

I, Neil Pedersen, attorney for Tuiasosopo, hereby represent and declare that I have reviewed the Settlement Agreement and Release as to form and content.

Dated: 3-2-09

By: 

NEIL PEDERSEN, ESQ.

Attorney for Plaintiff Peter Navy Tuiasosopo

Acknowledged and agreed as to form:

DATED: 3-4-09

By: 

AVI BURKWITZ, ESQ.

PETERSON & BRADFORD, LLP

Attorney for Defendant